



Howrey Docket No.: 04813.0031.NPUS00
MP Reference No. M26.NPR.US

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Jeffrey A. Colborn

Appl. No.: 10/085,477

Filed: February 26, 2002

For: **METHOD OF AND SYSTEM FOR
COOLING A BACKUP POWER SYSTEM**

Art Unit: 1745

Examiner: Dah-Wei D. Yuan

**Terminal Disclaimer to Obviate a Double Patenting
Rejection Under 37 C.F.R. § 1.321(c)**

Mail Stop Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

METALLIC POWER, INC. represents that it is the owner of the entire right, title, and interest of U.S. Patent Application No. 09/930,557, and U.S. Patent No. 6,746,790 that issued therefrom, by virtue of an Assignment from inventor Jeffrey A. Colborn executed on September 5, 2001, and recorded on September 19, 2001, at Reel 012193, Frame 0376. Furthermore, **METALLIC POWER, INC.** represents that it is the owner of the entire right, title, and interest of the above-named Application No. 10/085,477 by virtue of the Assignment from inventor Jeffrey A. Colborn executed on March 29, 2002, and recorded on April 30, 2002 at Reel 012864, Frame 0898.

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any referred to as being attached hereto) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

July 12, 2004
Date of Deposit

Robin L. Clow

Name of Person Mailing Paper

07/15/2004 HVUONG1 00000127 083038 10085477

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R. Clow
Signature of Person Mailing Paper

Establishing Right of Assignee to Take Action Under 37 C.F.R. § 3.73(b)

In accordance with 37 C.F.R. § 3.73(b)(2), the undersigned affirms that he is an attorney or agent of record duly authorized to act on behalf of the assignee.

Disclaimer

METALLIC POWER, INC. hereby disclaims the terminal part of any patent granted on the above-identified application that would extend beyond the expiration of U.S. Patent No. 6,746,790 granted on its co-owned U.S. Application No. 09/930,557, and hereby agrees that any patent granted on the above-identified application, or any patent granted on the above-identified application and subject to a reexamination proceeding, shall be enforceable only for and during such period that said patent is commonly owned with U.S. Patent No. 6,746,790, the patent that formed the basis of the obviousness type double patenting rejection, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

Petitioner does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory term, as currently shortened by any terminal disclaimer, of U.S. Patent No. 6,746,790 in the event that such patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to the expiration of its statutory term as shortened by any terminal disclaimer filed prior to its grant, except for the separation of legal title stated above.

This disclaimer is accompanied by the fee set forth under 37 C.F.R. § 1.20(d), believed to be \$55.00. The U.S. Patent and Trademark Office is hereby authorized to charge this fee, and any fee deficiency, to our Deposit Account No. **08-3038**, referencing Docket No. **04813.0031.NPUS00**.

Respectfully submitted,

HOWREY SIMON ARNOLD & WHITE LLP



Robert C. Laurenson, Reg. No. 34,206

Date: July 12, 2004

HOWREY SIMON ARNOLD & WHITE, LLP
Box No. 34
301 Ravenswood Avenue
Menlo Park, CA 94025
Facsimile: (650) 463-8400
Telephone: (949) 759-5269